

KENTUCKY CRIMINAL LAW MANUAL

UPDATES FROM THE 2014 Kentucky General Assembly

*This document must be used **only** with the 2013 version of the Kentucky Criminal Law Manual. Only the amended portion of a statute is included and the catchline is included only when new or amended. Simple renumbering in a series is not reflected in this document, but should be presumed.*

KRS 189.515 is amended to read as follows:

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- (4) Except for vehicles authorized to operate on a public highway, a person sixteen (16) years of age or older operating an all-terrain vehicle on public property shall wear approved protective headgear, in the manner prescribed by the secretary of the Transportation Cabinet, at all times that the vehicle is in motion. The approved headgear requirement shall not apply when the operator of any all-terrain vehicle is engaged in:
- (a) Farm or agriculture related activities;
 - (b) Mining or mining exploration activities;
 - (c) Logging activities;
 - (d) Any other business, commercial, or industrial activity;~~[-or]~~
 - (e) Use of that vehicle on private property; or
 - (f) The crossing of a public roadway with a posted speed limit of fifty-five (55) miles per hour or less. The crossing of a public roadway outlined in this paragraph shall be in compliance with subsection (6)(a) of this section.**

KRS 189.999 is amended to read as follows:

- (1) All offenses under this chapter classified as violations shall be prepayable except for:
 - (a) Any offense that could result in license suspension or revocation by the court or the Transportation Cabinet;
 - (b) Any offense relating to KRS 189.393, 189.520, or 189.580;
 - (c) When the defendant is speeding in a restricted zone;
 - (d) When the defendant is speeding more than twenty-five (25) miles per hour over the posted speed limit under KRS 189.394;
 - (e) An offense where evidence of the offense or of commission of another offense is seized by the officer and the citation is so marked and a court date set;
 - (f) The offense is cited with another offense that is not prepayable;
 - (g) When the defendant is under the age of eighteen (18); or**
 - ~~**(h)(g)**~~ An arrest is made under KRS 431.015.
- (2) In the event that a prepayable offense is cited with another offense that is not prepayable, a court appearance shall be required on all of the offenses as required by KRS 431.452.

KRS 189A.345 is amended to read as follows:

- (1) No person shall operate a motor vehicle or motorcycle without a functioning ignition interlock device when prohibited to do so under KRS 189A.340(1) or under KRS 189A.410(2).
- (2) (a) No person shall start a motor vehicle or motorcycle equipped with an ignition interlock device for the purpose of providing an operable motor vehicle or motorcycle to a person subject to the prohibition established in KRS ~~**189A.340(1)**~~~~189.340(1)]~~ or under KRS ~~**189A.410**~~~~189A.440](2)(b).~~

KRS 218A.010 is amended to read as follows:

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- (21) "Marijuana" means all parts of the plant Cannabis sp., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin or any compound, mixture, or preparation which contains

any quantity of these substances. The term "marijuana" does not include:

- (a)** Industrial hemp as defined in KRS 260.850;
- (b)** *The substance cannabidiol, when transferred, dispensed, or administered pursuant to the written order of a physician practicing at a hospital or associated clinic affiliated with a Kentucky public university having a college or school of medicine; or*
- (c)** *For persons participating in a clinical trial or in an expanded access program, a drug or substance approved for the use of those participants by the United States Food and Drug Administration;*

KRS 218A.1438 is amended to read as follows:

- (1) Notwithstanding KRS ~~218A.1446~~^{218A.1442}, a person is guilty of unlawful distribution of a methamphetamine precursor when he or she knowingly and unlawfully sells, transfers, distributes, dispenses, or possesses with the intent to sell, transfer, distribute, or dispense any drug product or combination of drug products containing ephedrine, pseudoephedrine, or phenylpropanolamine, or any of their salts, isomers, or salts of isomers, if the person knows that the purchaser intends that the drug product or combination of drug products will be used as a precursor to methamphetamine or other controlled substance, or if the person sells, transfers, distributes, or dispenses the drug product or combination of drug products with reckless disregard as to how the drug product or combination of drug products will be used.

KRS 237.110 License to carry concealed deadly weapon – Criteria – Training – Paper or electronic application – Issuance and denial of licenses – Automated listing of license holders – Suspension or revocation – Renewal – Prohibitions – Reciprocity – Reports – Requirements for training classes.

- (1) The Department of Kentucky State Police is authorized to issue and renew licenses to carry concealed firearms or other deadly weapons, or a combination thereof, to persons qualified as provided in this section.
- (2) An original or renewal license issued pursuant to this section shall:
 - (a) Be valid throughout the Commonwealth and, except as provided in this section or other specific section of the Kentucky Revised Statutes or federal law, permit the holder of the license to carry firearms, ammunition, or other deadly weapons, or a combination thereof, at any location in the Commonwealth;
 - (b) Unless revoked **or suspended** as provided by law, be valid for a period of five (5) years from the date of issuance;
 - (c) Authorize the holder of the license to carry a concealed firearm or other deadly weapon, or a combination thereof, on or about his or her person; and
 - (d) Authorize the holder of the license to carry ammunition for a firearm on or about his or her person.
- (3) Prior to the issuance of an original or renewal license to carry a concealed deadly weapon, the Department of Kentucky State Police, **upon receipt of a completed application, applicable fees, and any documentation required by this section or administrative regulation promulgated by the Department of Kentucky State Police,** shall conduct a background check to ascertain whether the applicant is eligible under 18 U.S.C. sec. 922(g) and (n), any other applicable federal law, and state law to purchase, receive, or possess a firearm or ammunition, or both. The background check shall include:

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- (4) The Department of Kentucky State Police shall issue an original or renewal license if the applicant:
 - (a) Is not prohibited from the purchase, receipt, or possession of firearms, ammunition, or both pursuant to 18 U.S.C. 922(g), 18 U.S.C. 922(n), or applicable federal or state law;
 - (b)
 - 1. Is a citizen of the United States who is a resident of this Commonwealth;
 - 2. Is a citizen of the United States who is a member of the Armed Forces of the United States who is on active duty, who is at the time of application assigned to a military posting in Kentucky;
 - 3. Is lawfully admitted to the United States by the United States government or an agency thereof, is permitted by federal law to purchase a firearm, **and is a resident of this Commonwealth;** or

(5) (a) A legible photocopy or electronic copy of the certificate of completion issued by the Department of Criminal Justice Training shall constitute evidence of qualification under subsection (4)(i) of this section.

(b) Persons qualifying under subsection (6)(~~d~~)(~~e~~) of this section may submit with their application:

1. At least one (1) of the following paper or electronic forms or their successor forms showing evidence of handgun training or handgun qualifications:

~~a.1.~~ Department of Defense Form DD 2586;

~~b.2.~~ Department of Defense Form DD 214;

~~c.3.~~ Coast Guard Form CG 3029;

~~d.4.~~ Department of the Army Form DA 88-R;

~~e.5.~~ Department of the Army Form DA 5704-R;

~~f.6.~~ Department of the Navy Form OPNAV 3591-1; ~~or~~

~~g.7.~~ Department of the Air Force Form AF 522; or

2.a. Documentary evidence of an honorable discharge; and

b. A notarized affidavit on a form provided by the Department of Kentucky State Police, signed under penalty of perjury, stating the person has met the training requirements of subsection (6)(c) of this section.

(6) (a) Peace officers who are currently certified as peace officers by the Kentucky Law Enforcement Council pursuant to KRS 15.380 to 15.404 and peace officers who are retired and are members of the Kentucky Employees Retirement System, State Police Retirement System, or County Employees Retirement System or other retirement system operated by or for a city, county, or urban-county in Kentucky shall be deemed to have met the training requirement.

(c) Corrections officers who are currently employed by a county containing a consolidated local government or an urban-county government who have successfully completed a basic firearms training course required for their employment, and corrections officers who were formerly employed by a county containing a consolidated local government or an urban-county government who are retired, and who successfully completed a basic firearms training course required for their employment, and are members of a state-administered retirement system or other retirement system operated by or for a city, county, or urban-county government in Kentucky shall be deemed to have met the training requirement.

~~(d)(e)~~ Active or honorably discharged service members in the United States Army, Navy, Marine Corps, Air Force, or Coast Guard, or a reserve component thereof, or of the Army National Guard or Air National Guard shall be deemed to have met the training requirement if these persons:

1. Successfully completed handgun training~~[of not less than four (4) hours,]~~ which was conducted by the United States Army, Navy, Marine Corps, Air Force, or Coast Guard, or a reserve component thereof, or of the Army National Guard or Air National Guard; or

2. Successfully completed handgun qualification within the United States Army, Navy, Marine Corps, Air Force, or Coast Guard, or a reserve component thereof, or of the Army Guard or Air Force National Guard.

(7)(~~a~~)1. A paper~~The~~ application for a license, or renewal of a license, to carry a concealed deadly weapon shall be obtained from and submitted to the office of the sheriff in the county in which the person resides.

2. An applicant, in lieu of a paper application, may submit an electronic application for a license, or renewal of a license, to carry a concealed deadly weapon to the Department of Kentucky State Police.

3. Persons qualifying under subsection (6)(~~d~~)(~~e~~) of this section shall be supplied the information in subsection (4)(i)4. of this section upon obtaining an application.

(b) 1. The completed paper application and any documentation required by this section~~all accompanying material]~~ plus an application fee or renewal fee, as appropriate, of sixty dollars (\$60) shall be presented to the office of the sheriff of the county in which the applicant resides.~~[A full-time or part-time peace officer who is currently certified as a peace officer by the Kentucky Law Enforcement Council~~

~~who is authorized by his or her employer or government authority to carry a concealed deadly weapon at all times and all locations within the Commonwealth pursuant to KRS 527.020 or a retired peace officer who is a member of the Kentucky Employees Retirement System, State Police Retirement System, County Employees Retirement System, or other retirement system operated by or for a city, county, or urban-county in Kentucky shall be exempt from paying the application or renewal fees.]~~

2. The sheriff shall transmit the **paper** application and accompanying material to the Department of Kentucky State Police within five (5) working days.

3. Twenty dollars (\$20) of the **paper** application fee shall be retained by the office of the sheriff for official expenses of the office. Twenty dollars (\$20) shall be sent to the Department of Kentucky State Police with the application. Ten dollars (\$10) shall be transmitted by the sheriff to the Administrative Office of the Courts to fund background checks for youth leaders, and ten dollars (\$10) shall be transmitted to the Administrative Office of the Courts to fund background checks for applicants for concealed weapons.

(c)1. A completed electronic application submitted in lieu of a paper application, any documentation required by this section, and an application fee or renewal fee, as appropriate, of seventy dollars (\$70) shall be presented to the Department of Kentucky State Police.

2. If an electronic application is submitted in lieu of a paper application, thirty dollars (\$30) of the electronic application fee shall be retained by the Department of Kentucky State Police. Twenty dollars (\$20) shall be sent to the office of the sheriff of the applicant's county of residence for official expenses of the office. Ten dollars (\$10) shall be transmitted to the Administrative Office of the Courts to fund background checks for youth leaders, and ten dollars (\$10) shall be transmitted to the Administrative Office of the Courts to fund background checks for applicants for concealed weapon carry permit.

(d) A full-time or part-time peace officer who is currently certified as a peace officer by the Kentucky Law Enforcement Council and who is authorized by his or her employer or government authority to carry a concealed deadly weapon at all times and all locations within the Commonwealth pursuant to KRS 527.020, or a retired peace officer who is a member of the Kentucky Employees Retirement System, State Police Retirement System, County Employees Retirement System, or other retirement system operated by or for a city, county, or urban-county government in Kentucky, shall be exempt from paying the paper or electronic application or renewal fees.

(e) The application **whether paper or electronic,** shall be completed, under oath, on a form **or in a manner** promulgated by the Department of Kentucky State Police by administrative regulation which shall ~~only~~ include:

1.a.(a)1. The name, address, place and date of birth, citizenship, gender, Social Security number of the applicant; and

b.(2.) If not a citizen of the United States, alien registration number if applicable, passport number, visa number, mother's maiden name, and other information necessary to determine the immigration status and eligibility to purchase a firearm under federal law of a person who is not a citizen of the United States;

2.(b) A statement that, to the best of his or her knowledge, the applicant is in compliance with criteria contained within subsections (3) and (4) of this section;

3.(e) A statement that the applicant, if qualifying under subsection (6)(c) of this section, has provided:

a. At least one (1) of the forms listed in subsection (5) of this section; or

b. i. Documentary evidence of an honorable discharge; and

ii. A notarized affidavit on a form provided by the Department of Kentucky State Police stating the person has met the training requirements of subsection (6)(c) of this section;

4. A statement that the applicant has been furnished a copy of this section and is knowledgeable about its provisions;

5.(d) A statement that the applicant has been furnished a copy of, has read, and understands KRS Chapter 503 as it pertains to the use of deadly force for self-defense in Kentucky; and

6.(e) A conspicuous warning that the application is executed under oath and that a materially false answer to any question, or the submission of any materially false document by the applicant, subjects the applicant to criminal prosecution under KRS 523.030.

(8) The applicant, if a resident of the Commonwealth, shall submit to the sheriff of the applicant's county of residence or county of military posting if submitting a paper application, or to the

Department of Kentucky State Police if submitting an electronic application:

- (a) A completed application as described in subsection (7) of this section;
- (b) A recent color photograph of the applicant, as prescribed by administrative regulation;
- (c) A **paper or electronic**~~[photocopy of a]~~ certificate or an affidavit or document as described in subsection (5) of this section; ~~and~~

(d) A paper or electronic document establishing the training exemption as described in subsection (6) of this section; and

(e) For an applicant who is not a citizen of the United States and has been lawfully admitted to the United States by the United States government or an agency thereof, **an affidavit as prescribed by administrative regulation concerning his or her immigration status and** his or her United States government issued:

- 1. Permanent Resident Card I-551 or its equivalent successor identification;
- 2. Other United States government issued evidence of lawful admission to the United States which includes the category of admission, if admission has not been granted as a permanent resident; and
- 3. Evidence of compliance with the provisions of 18 U.S.C. sec. 922(g)(5), 18 U.S.C. sec. 922(d)(5), or 18 U.S.C. sec. 922(y)(2), and 27 C.F.R. Part 178, including, as appropriate, but not limited to evidence of ninety (90) day residence in the Commonwealth, a valid current Kentucky hunting license if claiming exemption as a hunter, or other evidence of eligibility to purchase a firearm by an alien which is required by federal law or regulation.

If an applicant presents identification specified in this paragraph, the sheriff shall examine the identification, may record information from the identification presented, and shall return the identification to the applicant.

(9) The Department of Kentucky State Police shall, within sixty (60) days after the date of receipt of the items listed in subsection (8) of this section **if the applicant submitted a paper application, or within fifteen (15) business days after the date of receipt of the items listed in subsection (8) of this section if the applicant applied electronically**~~[from the sheriff]~~, either:

- (a) Issue the license; or
- (b) Deny the application based solely on the grounds that the applicant fails to qualify under the criteria listed in subsection (3) or (4) of this section. If the Department of Kentucky State Police denies the application, it shall notify the applicant in writing, stating the grounds for denial and informing the applicant of a right to submit, within thirty (30) days, any additional documentation relating to the grounds of denial. Upon receiving any additional documentation, the Department of Kentucky State Police shall reconsider its decision and inform the applicant within twenty (20) days of the result of the reconsideration. The applicant shall further be informed of the right to seek de novo review of the denial in the District Court of his or her place of residence within ninety (90) days from the date of the letter advising the applicant of the denial.

(10) The Department of Kentucky State Police shall maintain an automated listing of license holders and pertinent information, and this information shall be available~~[on-line]~~ upon request, at all times to all Kentucky, federal, and other states' law enforcement agencies. A request for the entire list of licensees, or for all licensees in a geographic area, shall be denied. Only requests relating to a named licensee shall be honored or available **to law enforcement agencies**~~[on-line]~~. Information on applications for licenses, names and addresses, or other identifying information relating to license holders shall be confidential and shall not be made available except to law enforcement agencies. No request for lists of local or statewide permit holders shall be made to any state or local law enforcement agency, peace officer, or other agency of government other than the Department of Kentucky State Police, and no state or local law enforcement agency, peace officer, or agency of government, other than the Department of Kentucky State Police, shall provide any information **to any requester** not entitled to it by law.

(11) Within thirty (30) days after the changing of a permanent address, or within thirty (30) days after the loss, theft, or destruction of a license, the licensee shall notify the Department of Kentucky State Police of the loss, theft, or destruction. Failure to notify the Department of Kentucky State Police shall constitute a noncriminal violation with a penalty of twenty-five dollars (\$25) payable to the clerk of the District Court. No court costs shall be assessed for a violation of this subsection. When a licensee makes application to change his or her residence address or other information on the license, neither the sheriff nor the Department of Kentucky State Police shall require a surrender of the license until a new license is in the office of the applicable sheriff and available for issuance. Upon the issuance of a new license, the old license shall be destroyed by the sheriff.

(12) If a license is lost, stolen, or destroyed, the license shall be automatically invalid, and the person to whom the same was issued may, upon payment of fifteen dollars (\$15) for a paper request, or twenty-five dollars (\$25) for an electronic request submitted in lieu of a paper request, to the Department of Kentucky State Police, obtain a duplicate, upon furnishing a notarized statement to the Department of Kentucky State Police that the license has been lost, stolen, or destroyed.

(14) (a) Not less than one hundred twenty (120) days prior to the expiration date of the license, the Department of Kentucky State Police shall mail to each licensee a written notice of the expiration and a renewal form prescribed by the Department of Kentucky State Police. The outside of the envelope containing the license renewal notice shall bear only the name and address of the applicant. No other information relating to the applicant shall appear on the outside of the envelope sent to the applicant. The licensee may renew his or her license on or before the expiration date by filing with the sheriff of his or her county of residence the paper renewal form, or by filing with the Department of Kentucky State Police an electronic renewal form in lieu of a paper renewal form~~[a notarized affidavit]~~ stating that the licensee remains qualified pursuant to the criteria specified in subsections (3) and (4) of this section, and the required renewal fee set forth in subsection (7) of this section. The sheriff shall issue to the applicant a receipt for the paper application for renewal of the license and shall date the receipt. The Department of Kentucky State Police shall issue to the applicant a receipt for an electronic application for renewal of the license submitted in lieu of a paper application for renewal and shall date the receipt.

(20) (a) A person who is not a resident of Kentucky and who has a valid license issued by another state of the United States to carry a concealed deadly weapon in that state may, subject to provisions of Kentucky law, carry a concealed deadly weapon in Kentucky, and his or her license shall be considered as valid in Kentucky.

(b) If a person with a valid license to carry a concealed deadly weapon issued from another state that has entered into a reciprocity agreement with the Department of Kentucky State Police becomes a resident of Kentucky, the license issued by the other state shall be considered as valid for the first one hundred and twenty (120) days of the person's residence in Kentucky, if within sixty (60) days of moving to Kentucky, the person completes a form promulgated by the Department of Kentucky State Police which shall include:

1. A signed and notarized statement averring that to the best of his or her knowledge the person's license to carry a concealed deadly weapon is valid and in compliance with applicable out-of-state law, and has not been revoked or suspended for any reason except for valid forfeiture due to departure from the issuing state;

2. The person's name, date of birth, citizenship, gender, Social Security number if applicable, proof that he or she is a citizen of the United States, a permanent resident of the United States, or otherwise lawfully present in the United States, former out-of-state address, current address within the state of Kentucky, date on which Kentucky residence began, state which issued the concealed carry license, the issuing state's concealed carry license number, and the state of issuance of license; and

3. A photocopy of the person's out-of-state license to carry a concealed deadly weapon.

(c) Within sixty (60) days of moving to Kentucky, the person shall deliver the form and accompanying documents by registered or certified mail, return receipt requested, to the address indicated on the form provided by the Department of Kentucky State Police pursuant to this subsection.

(d) The out-of-state concealed carry license shall become invalid in Kentucky upon the earlier of:

1. The out-of-state person having resided in Kentucky for more than one hundred twenty (120) days; or

2. The person being issued a Kentucky concealed deadly weapon license pursuant to this section.

(e) The Department of Kentucky State Police shall, not later than thirty (30) days after July 15, 1998, and not less than once every ~~twelve (12)~~~~six (6)~~ months thereafter, make written inquiry of the concealed deadly weapon carrying licensing authorities in each other state as to whether a Kentucky resident may carry a concealed deadly weapon in their state based upon having a valid Kentucky concealed deadly weapon license, or whether a Kentucky resident may apply for a concealed deadly weapon carrying license in that state based upon having a valid Kentucky concealed deadly weapon license. The Department of Kentucky State Police shall attempt to secure from each other state permission for Kentucky residents who hold a valid Kentucky concealed deadly weapon license to carry concealed deadly weapons in that state, either on the basis of the Kentucky license or on the basis that the Kentucky license is sufficient to permit the issuance of a similar license by the other state. The Department of Kentucky State Police shall enter into a written reciprocity agreement with the appropriate agency in each state that agrees to permit Kentucky residents to carry concealed deadly weapons in the other state on the basis of a Kentucky-issued concealed deadly weapon license or that will issue a license to carry concealed deadly weapons in the other state based upon a Kentucky concealed deadly weapon license. If a reciprocity agreement is reached, the requirement to recontact the other state each ~~twelve (12)~~~~six (6)~~ months shall be eliminated as long as the reciprocity agreement is in force. The information shall be a public record and shall be available to individual requesters free of charge for the first copy and at the normal rate for open records requests for additional copies.

KRS 304.39-117 is amended to read as follows:

(1) Each insurer issuing an insurance contract which provides security covering a motor vehicle shall provide to the insured, in compliance with administrative regulations promulgated by the department, written proof in the form of an insurance card that the insured has in effect an insurance contract providing security in conformity with this subtitle. An insurer may provide an insurance card in either a paper or an electronic format.

(2) **If an owner enters into an insurance contract on a newly acquired motor vehicle, or changes insurance carriers on an existing motor vehicle,** the owner shall keep the paper insurance card or a portable electronic device to download the insurance card in his or her motor vehicle **for forty-five (45) days from the date the coverage took effect** as prima facie evidence~~], except as provided in subsection (3) of this section,~~ that the required security is currently in full force and effect, and shall show the card to a peace officer upon request.

(3) ~~[On and after January 1, 2006,]~~As to personal motor vehicles as defined in KRS 304.39-087, the paper or electronic insurance card ~~or and~~ the database created by KRS 304.39-087 shall be evidence to a peace officer who requests the card if the peace officer has access to the database through AVIS. If AVIS does not list the vehicle identification number of the personal motor vehicle as an insured vehicle, the peace officer may accept a paper or electronic insurance card as evidence that the required security is currently in full force and effect on the personal motor vehicle if the card was effective no more than forty-five (45) days before the date on which the peace officer requests the card.

KRS 403.754 Petitioner for protective order may apply for temporary permit to carry concealed deadly weapon – Criteria – Denial of application final – Conversion to concealed carry license – Automated listing of temporary permit holders.

(1) **A petitioner for an order of protection granted under KRS 403.715 to 403.785 may apply for a temporary permit to carry a concealed deadly weapon on or about his or her person into those places and under the same conditions as a person holding a carry concealed deadly weapon license issued under KRS 237.110.**

(2) **To request a temporary permit authorized by this section, the petitioner shall apply electronically for a license to carry a concealed deadly weapon in the manner set forth in KRS 237.110 and administrative regulation promulgated by the Department of Kentucky State Police, unless the electronic application is unavailable. If the electronic application is unavailable, applications for temporary permits under this section shall not be accepted.**

(3) **Prior to the issuance of a temporary permit authorized by this section, the Department of Kentucky State Police, upon receipt of a completed application, application fee, and any documentation required by KRS 237.110 or administrative regulation promulgated by the Department of Kentucky State Police, shall conduct the background check as set forth in KRS 237.110.**

(4) The Department of Kentucky State Police shall issue a temporary permit authorized by this section if the applicant is not disqualified under the standards set forth in KRS 237.110(4)(a) to (h).

(5) A temporary permit issued under this section shall be valid for forty-five (45) days from the date of issuance and not be subsequently extended or reissued. A temporary permit which has expired shall be void and shall not be valid for any purpose.

(6) The Department of Kentucky State Police shall, within one (1) working day or as soon as practically possible after the date of receipt of the completed application, a recent color photograph of the applicant, and, for applicants who are not citizens of the United States, any documentation required under KRS 237.110, either issue the temporary permit or deny the application based solely on the grounds that the applicant fails to qualify under the criteria set forth in KRS 237.110.

(7) In order to convert the temporary permit issued under this section into a license to carry a concealed deadly weapon issued under KRS 237.110, the applicant shall meet the firearms safety training requirement under KRS 237.110(4) within the forty-five (45) day period the temporary permit is valid. If firearms safety training is not completed within the forty-five (45) day temporary permit period, a new application for a license to carry a concealed deadly weapon shall be required.

(8) If the Department of Kentucky State Police denies the application for a temporary permit, that decision shall be final but the applicant's application for a license to carry a concealed deadly license shall continue to be processed and either issued or denied in accordance with KRS 237.110.

(9) The holder of a permit issued under this section shall carry the permit at all times the permit holder is carrying a concealed firearm or other deadly weapon and shall display the permit upon request of a law enforcement officer. Violation of the provisions of this subsection shall constitute a noncriminal violation with a penalty of twenty-five dollars (\$25), payable to the clerk of the District Court, but no court costs shall be assessed.

(10) The Department of Kentucky State Police shall maintain an automated listing of temporary permit holders and pertinent information under the same circumstances and restrictions set forth in KRS 237.110.

(11) Nothing in this section shall authorize the carrying of a concealed deadly weapon by a person prohibited from possessing such a weapon by state or federal law.

KRS 438.305 is amended to read as follows:

As used in KRS 438.305 to 438.340, unless the context requires otherwise:

(1) (a) "Alternative nicotine product" means a noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means.

(b) "Alternative nicotine product" does not include any tobacco product, vapor product, or any other product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act;

~~(6)(5)~~ "Sample" means a tobacco product, **alternative nicotine product, or vapor product** distributed to members of the general public at no cost;

(8) (a) "Tobacco product" means any cigarette, cigar, snuff, smokeless tobacco product, smoking tobacco, chewing tobacco, and any kind or form of tobacco prepared in a manner suitable for chewing or smoking, or both, or any kind or form of tobacco that is suitable to be placed in a person's mouth.

(b) "Tobacco product" does not include any alternative nicotine product, vapor product, or product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act.

(9) (a) "Vapor product" means any noncombustible product containing nicotine that

employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. "Vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar product or device.

(b) "Vapor product" does not include any product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Food, Drug and Cosmetic Act.

KRS 438.310 Sale of tobacco products, alternative nicotine products, or vapor products to persons under age 18 prohibited – Penalty.

(1) No person shall sell or cause to be sold any tobacco product, **alternative nicotine product, or vapor product** at retail to any person under the age of eighteen (18), or solicit any person under the age of eighteen (18) to purchase any tobacco product, **alternative nicotine product, or vapor product** at retail.

(2) Any person who sells tobacco products, **alternative nicotine products, or vapor products** at retail shall cause to be posted in a conspicuous place in his establishment a notice stating that it is illegal to sell tobacco products, **alternative nicotine products, or vapor products** to persons under age eighteen (18).

(3) Any person selling tobacco products, **alternative nicotine products, or vapor products** shall require proof of age from a prospective buyer or recipient if the person has reason to believe that the prospective buyer or recipient is under the age of eighteen (18).

KRS 438.311 Unlawful acts by minors relating to purchase or receive of tobacco products, alternative nicotine products, or vapor products – Penalty – issuance of uniform citation.

(1) Except for the provisions of KRS 438.330, it shall be unlawful for a person who has not attained the age of eighteen (18) years to purchase or accept receipt of or to attempt to purchase or accept receipt of a tobacco product, **alternative nicotine product, or vapor product**, or to present or offer to any person any purported proof of age which is false, fraudulent, or not actually his or her own, for the purpose of purchasing or receiving any tobacco product, **alternative nicotine product, or vapor product**. It shall not be unlawful for such a person to accept receipt of a tobacco product, **alternative nicotine product, or vapor product** from a family member, except if the child has been committed to the custody of the state under KRS Chapters 600 to 645, or from an employer when required in the performance of the person's duties.

KRS 438.313 Distribution of tobacco products, alternative nicotine products, or vapor products to persons under age 18 prohibited – Penalty – Issuance of uniform citation.

(1) No wholesaler, retailer, or manufacturer of cigarettes,~~[-or]~~ tobacco products, **alternative nicotine products, or vapor products** may distribute cigarettes,~~[-or]~~ tobacco products, **alternative nicotine products, or vapor products**, including samples thereof, free of charge or otherwise, to any person under the age of eighteen (18).

(2) Any person who distributes cigarettes,~~[-or]~~ tobacco products, **alternative nicotine products, or vapor products**, including samples thereof, free of charge or otherwise shall require proof of age from a prospective buyer or recipient if the person has reason to believe that the prospective purchaser or recipient is under the age of eighteen (18).

KRS 438.315 Sales of tobacco products, alternative nicotine products, or vapor products to or purchases by persons under age 18 from vending machine prohibited – Location of vending machine – Penalty – Issuance of uniform citation.

(1) The sale of tobacco products, **alternative nicotine products, or vapor products** dispensed through a vending machine is prohibited to any person under the age of eighteen (18) years.

(2) The purchase of tobacco products, **alternative nicotine products, or vapor products** dispensed through a vending machine is prohibited to any person under the age of eighteen (18) years.

(3) Except for vending machines located in factories or vending machines located in bars or taverns to which minors are not permitted access,~~[-beginning one (1) year after July 15, 1994,]~~ any vending machine from which tobacco products, **alternative nicotine products, or vapor products** are dispensed

shall be located in the line of sight of the cashier for the retail establishment.

KRS 438.325 is amended to read as follows:

(1) Each owner of a retail establishment selling or distributing tobacco products, alternative nicotine products, or vapor products shall notify each individual employed in the retail establishment as a retail sales clerk that the sale of tobacco products, alternative nicotine products, or vapor products to any person under the age of eighteen (18) years and the purchase of tobacco products, alternative nicotine products, or vapor products by any person under the age of eighteen (18) years ~~is~~^{are} prohibited.

(2) Each owner of a retail establishment selling or distributing tobacco products, alternative nicotine products, or vapor products shall notify each individual employed in the retail establishment as a retail sales clerk that proof of age is required from a prospective buyer or recipient if the person has reason to believe that the prospective purchaser or recipient is under the age of eighteen (18).

(3) The notice to employees that is required in subsection (1) of this section shall be provided before the person commences work as a retail sales clerk, or, in the case of a person employed as a retail sales clerk on the effective date of this Act ~~July 15, 1994~~, within thirty (30) days of that date. The employee shall signify receipt of the notice required by this section by signing a form that states as follows:

"I understand that under the law of the Commonwealth of Kentucky it is illegal to sell or distribute tobacco products, alternative nicotine products, or vapor products to persons under the age of eighteen (18) years and that it is illegal for persons under the age of eighteen (18) years to purchase tobacco products, alternative nicotine products, or vapor products."

(4) The owner of the retail establishment shall maintain the signed notice that is required pursuant to subsection (3) of this section in a place and in a manner so as to be easily accessible to any employee of the Department of Alcoholic Beverage Control or the Department of Agriculture conducting an inspection of the retail establishment for the purpose of monitoring compliance in limiting the sale or distribution of tobacco products, alternative nicotine products, or vapor products to persons under the age of eighteen (18) as provided in KRS 438.305 to 438.340.

(5) Any owner of the retail establishment violating subsections (1) to (4) of this section shall be subject to a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each violation. The fine shall be administered by the Department of Alcoholic Beverage Control in a civil enforcement procedure.

KRS 438.330 is amended to read as follows:

KRS 438.330 Random inspections of retail establishment selling or distributing tobacco products, alternative nicotine products, or vapor products – Preparation of federally required annual report.

(1) The Department of Alcoholic Beverage Control and the Department of Agriculture shall carry out annually-conducted random, unannounced inspections of retail establishments where tobacco products, alternative nicotine products, or vapor products are sold or distributed for the purpose of enforcing the provisions of KRS 438.305 to 438.340. The inspections shall be conducted to the extent necessary to assure that the Commonwealth remains in compliance with Public Law 102-321 and applicable federal regulations. The Department of Alcoholic Beverage Control and the Department of Agriculture shall also ensure that targeted inspections are conducted at those retail establishments where, and at those times when, persons under the age of eighteen (18) years are most likely to purchase tobacco products, alternative nicotine products, or vapor products. Persons under the age of eighteen (18) years may be used to test compliance with the provisions of KRS 438.305 to 438.340 only if the testing is conducted under the direct supervision of the Department of Alcoholic Beverage Control, sheriff, or chief of police, or their employees, and written parental consent has been obtained. The Department of Alcoholic Beverage Control shall prepare annually, for submission by the Governor to the Secretary of the United States Department of Health and Human Services, the report required by Section 1926 of Subpart 1 of Part B of Title XIX of the Federal Public Health Service Act.

(2) The Department of Alcoholic Beverage Control shall develop and implement the survey sampling methodologies to carry out the inspections as described in this section.

KRS 438.335 is amended to read as follows:

The Department of Agriculture shall carry out the provisions of KRS 438.305 to 438.340 as they relate to educating the public and sellers of tobacco products, alternative nicotine products, or vapor products about provisions and penalties of KRS 438.305 to 438.340. The Department of Agriculture shall be

entitled to the revenue produced by one-twentieth of one cent (\$0.0005) of the three-cent (\$0.03) per pack revenue collected by the Department of Revenue from the state excise tax on the sale of cigarettes as imposed by KRS 138.140 and to keep fifty percent (50%) of any fines collected under KRS 438.305 to 438.340 to offset the costs of these education efforts.

KRS 438.350 Prohibition against possession or use of tobacco products, *alternative nicotine products, or vapor products* by minors – Exceptions.

- (1) No person under the age of eighteen (18) shall possess or use tobacco products, *alternative nicotine products, or vapor products*.
- (2) Any tobacco product, *alternative nicotine product, or vapor product* found in the possession of a person under the age of eighteen (18) and in plain view of the law enforcement officer shall be confiscated by the law enforcement officer making the charge.
- (3) This section shall not apply to persons exempted as provided by KRS 438.311 and 438.330.
- (4) **The terms "*alternative nicotine product*," "*tobacco product*," and "*vapor product*," shall have the same meaning as in KRS 438.305.**

KRS 517.130 Possession of automated business record falsification device.

- (1) **A person is guilty of possession of an automated business record falsification device when he or she knowingly possesses any device or software program that falsifies the business records created by a point-of-sale system, such as any electronic device or computer system that keeps a register or supporting documents designed to record retail sales transaction information, by eliminating or manipulating true retail sales transaction information in order to represent a false record of transactions. These devices may also be referred to as "zappers" or "phantom-ware."**
- (2) **Possession of an automated business record falsification device is a Class D felony.**
- (3) **In addition to any other penalty provided by law:**
 - (a) **Any person guilty of possession of an automated business record falsification device shall forfeit all proceeds associated with its creation, sale, or usage; and**
 - (b) **An automated business record falsification device, and any device containing an automated business record falsification device, is contraband and shall be seized and forfeited to the state to be disposed of as provided in KRS 500.090.**

KRS 520.010 is amended to read as follows:

The following definitions apply in this chapter, unless the context otherwise requires:

- (3) "Dangerous contraband" means contraband which is capable of use to endanger the safety or security of a detention facility or persons therein, including, but not limited to, dangerous instruments as defined in KRS 500.080, any controlled substances, any quantity of an alcoholic beverage, and any quantity of marijuana, *cell phones*, and saws, files, and similar metal cutting instruments;

KRS 527.020 is amended to read as follows:

(5) (a) The following persons, if they hold a license to carry a concealed deadly weapon pursuant to KRS 237.110 **or 237.138 to 237.142**, may carry a firearm or other concealed deadly weapon on or about their persons at all times and at all locations within the Commonwealth of Kentucky, without any limitation other than as provided in this subsection:

1. A Commonwealth's attorney or assistant Commonwealth's attorney;
2. A retired Commonwealth's attorney or retired assistant Commonwealth's attorney;
3. A county attorney or assistant county attorney;
4. A retired county attorney or retired assistant county attorney;
5. A justice or judge of the Court of Justice; ~~and~~
6. A retired or senior status justice or judge of the Court of Justice; **and**
7. **A retired peace officer who holds a concealed deadly weapon license issued pursuant to the federal Law Enforcement Officers Safety Act, 18 U.S.C. sec. 926C, and KRS 237.138 to 237.142.**

KRS 529.160 Expungement of records relating to violation of chapter when person charged or convicted was a victim of human trafficking at time of offense – Motion – Finding – Presumption.

(1) When a person is charged or convicted under this chapter, or with an offense which is not a violent crime as defined in KRS 17.165, and the person's participation in the offense is determined to be the direct result of being a victim of human trafficking, the person may make a motion in the court in which the charges were filed to expunge all records of the offense.

(2) The motion shall be filed no sooner than sixty (60) days following the date the final judgment was entered by the court in which the charges were filed.

(3) (a) A motion filed under this section, any hearing conducted on the motion, and any relief granted, are governed by KRS 431.076, 431.078, and 431.079 unless otherwise provided in this section.

(b) For the purposes of expungement under KRS 431.076, a finding by the court that the person's participation in the offense was a direct result of being a victim of human trafficking shall deem the charges as dismissed with prejudice.

(c) No official determination or documentation is required to find that the person's participation in the offense was a direct result of being a victim of human trafficking, but documentation from a federal, state, local, or tribal governmental agency indicating that the defendant was a victim at the time of the offense shall create a presumption that the defendant's participation in the offense was a direct result of being a victim.

KRS 529.170 Being victim of human trafficking is affirmative defense to violation of chapter. A person charged under this chapter, or charged with an offense which is not a violent crime as defined in KRS 17.165, may assert being a victim of human trafficking as an affirmative defense to the charge.

KRS 531.090 is amended to read as follows:

(1) A person is guilty of voyeurism when:

(a) He or she intentionally:

1. Uses or causes the use of any camera, videotape, photooptical, photoelectric, or other image recording device for the purpose of observing, viewing, photographing, filming, or videotaping the sexual conduct, genitals, **an undergarment worn without being publicly visible**, or nipple of the female breast of another person without that person's consent; or

2. Uses the unaided eye or any device designed to improve visual acuity for the purpose of observing or viewing the sexual conduct, genitals, **an undergarment worn without being publicly visible**, or nipple of the female breast of another person without that person's consent; or

3. Enters or remains unlawfully in or upon the premises of another for the purpose of observing or viewing the sexual conduct, genitals, **an undergarment worn without being publicly visible**, or nipple of the female breast of another person without the person's consent; and

(b) The other person is in a place where a reasonable person would believe that his or her sexual conduct, genitals, **undergarments**, or nipple of the female breast will not be observed, viewed, photographed, filmed, or videotaped without his or her knowledge.

KRS 532.045 is amended to read as follows:

(1) As used in this section:

(a) "Position of authority" means but is not limited to the position occupied by a biological parent, adoptive parent, stepparent, foster parent, relative, household member, adult youth leader, recreational staff, or volunteer who is an adult, adult athletic manager, adult coach, teacher, classified school employee, certified school employee, counselor, staff, or volunteer for either a residential treatment facility, ~~a holding facility as defined in KRS 600.020,~~ or a detention facility as defined in KRS 520.010(4), staff or volunteer with a youth services organization, religious leader, health-care provider, or employer;

(22) "Diversion agreement" means **a mechanism designed to hold a child accountable for his or her behavior and, if appropriate, securing services**~~[an agreement entered into between a court-~~

~~designated worker and a child charged with the commission of offenses set forth in KRS Chapters 630 and 635, the purpose of which is] to serve the best interest of the child and to provide redress for **that behavior**[these offenses], without court action and without the creation of a formal court record;~~

(26) **"Evidence-based practices" means policies, procedures, programs, and practices proven by scientific research to reliably produce reductions in recidivism;**

(29) **"Graduated sanction" means any of a continuum of accountability measures, programs, and sanctions, ranging from less restrictive to more restrictive in nature, that may include but are not limited to:**

(a) Electronic monitoring;

(b) Drug and alcohol screening, testing, or monitoring;

(c) Day or evening reporting centers;

(d) Reporting requirements;

(e) Community service; and

(f) Rehabilitative interventions such as family counseling, substance abuse treatment, restorative justice programs, and behavioral or mental health treatment;

~~[(34) "Intermittent holding facility" means a physically secure setting, which is entirely separated from sight and sound from all other portions of a jail containing adult prisoners, in which a child accused of a public offense may be detained for a period not to exceed twenty-four (24) hours, exclusive of weekends and holidays prior to a detention hearing as provided for in KRS 610.265, and in which children are supervised and observed on a regular basis by certified juvenile facility staff;~~

~~(35) "Juvenile holding facility" means a physically secure facility, approved by the Department of Juvenile Justice, which is an entirely separate portion or wing of a building containing an adult jail, which provides total sight and sound separation between juvenile and adult facility spatial areas and which is staffed by sufficient certified juvenile facility staff to provide twenty-four (24) hours per day supervision;]~~

(36) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that the program developed on the child's behalf is no more harsh, hazardous, or intrusive than necessary; or involves no restrictions on physical movements nor requirements for residential care except as reasonably necessary for the protection of the child from physical injury; or protection of the community, and is conducted at the suitable available facility closest to the child's place of residence **to allow for appropriate family engagement;**

(43) **"Out-of-home placement" means a placement other than in the home of a parent, relative, or guardian, in a boarding home, clinical treatment facility, community-based facility, detention facility, emergency shelter, foster family home, hospital, nonsecure facility, physically secure facility, residential treatment facility, or youth alternative center;**

(53) **"Risk and needs assessment" means an actuarial tool scientifically proven to identify specific factors and needs that are related to delinquent and noncriminal misconduct;**

KRS 645.280 is amended to read as follows:

(1) No child held under the provisions of this chapter shall be held in a secure juvenile detention facility ~~or juvenile holding facility]~~ unless a status offense action or public offense action is also pending. No peace officer or any other person shall bring a status offense action or a public offense action against a child who is mentally ill and in need of hospitalization pursuant to this chapter solely or primarily for the purpose of avoiding transporting the child to a hospital, mental health facility, or other less restrictive

alternative.

(2) If, after evaluation, the qualified mental health professional finds that the child does not meet the criteria for involuntary hospitalization and the peace officer has reason to believe that the child has committed a status offense or public offense, the peace officer may proceed in accordance with KRS 610.190 to 610.290.